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**From:**

**Sent:** Monday, February 02, 2009 10:17:33 AM

**To:**

**Cc:**

**Subject:** RE: IRC §6698 Penalty

Your understanding is correct. P.L. 110-141 is an off-code provision that adds \$1 to the § 6698(b)(1) Failure to File a Partnership Return penalty. The \$1 addition does not apply to S Corporation returns. The \$1 increase also only applies to a taxable year beginning in 2008.

The § 6698 penalty will not state \$90. The \$90 figure is only reached by taking the \$89 penalty and adding the \$1 from the off-code provision. The Code has not changed because P.L. 110-141 did not amend the code. Instead, P.L. 110-141 added a separate off-code requirement that operates simultaneously with the code.

While I have not seen anything in the legislative history to explain why the code was not amended in this specific case, small penalty increases can be by-products of the pay-as-you-go system. The penalty increase may have been added to off-set a spending increase or tax cut in another provision. However, again, I do not know what the reasoning was in this case.

I hope this answers your questions. If there is anything else I can do to help you or if you have any other questions please feel free to contact me.

Have a good day,